



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

Col

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/903,871	07/13/2001	Richard Bontempi	P 281545 2010732US/A/kop	9620
909	7590	04/19/2005		EXAMINER
				NGUYEN, SON XUAN
			ART UNIT	PAPER NUMBER
				2664

DATE MAILED: 04/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	09/903,871	BONTEMPI ET AL.
	Examiner	Art Unit
	SON X. NGUYEN	2664

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 05 September 2001.
 2a) This action is FINAL. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-47 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) 1-47 is/are rejected.
 7) Claim(s) _____ is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on 05 September 2001 is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>9/27/02</u> .	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____

DETAILED ACTION

Specification

1. Claim 34 is objected to because of the following informalities:

There is typographical error. This claim should depend on claim 33, instead of claim 23.

Appropriate correction is required.

2. Claim 47 is objected to because of the following informalities:

There is typographical error. This claim should depend on claim 44, 45 or 46, instead of claim 43, 44 or 45.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting

directly or indirectly from an international application filed before November 29, 2000.

Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

4. Claims 1-7, 8-16, 21-34, 39-42, 44 and 46-47 are rejected under 35 U.S.C. 102(e) as being anticipated by Barany et al. (US 2002/0034166 A1) hereinafter referred to as Barany.

Regarding claim 1, Barany discloses a method for establishing a one-to-one voice communication in a communications system having different control plane and user-plane logical entities (**Packet-switched call between a mobile station 20 and a terminal 40 on the packet-switched data network is illustrated in Fig. 3; See lines 1-3 of paragraph 0061 on page 5**), comprising the steps of

starting a one-to-one call by call setup signaling embedded in a user-plane traffic sent from a calling subscriber to one of said user-plane logical entities, said embedded signaling identifying a called subscriber (**SIP Invite request, as encapsulated in an IP packet with associated IP and UDP headers, corresponds to call setup signaling including the destination address; See lines 1-6 of paragraph 0063 on page 5**),

establishing, in response to said embedded call setup signaling, a logical call path between the ones of said user-plane entities which are to be involved in routing of the call related user-plane traffic (**CSCF 41 identifies the location of the called terminal and establish the call over data network 32; See lines 12-14 of paragraph 0063 on page 5**),

assigning a call identifier to said call (SGSN assigns a predetermined channel to perform packet-switch call; See lines 10-12 of paragraph 0044 on page 4), and forwarding any subsequent user-plane traffic relating said call and containing said call identifier over said call path from said calling subscriber to said called subscriber (After the call has been set up, communication between mobile station 20 and a terminal 40 can proceed; See lines 12-13 of paragraph 0064 on page 5).

Regarding claim 2, Barany discloses wherein said step of establishing a logical call path comprises forwarding said user traffic with the embedded call setup signaling to said called subscriber and establishing a logical call path between the ones of said user-plane entities through which the embedded call setup signaling is routed (CSCF 41 resolves identifier in the call request and forwards to intended destination; See lines 9-13 of paragraph 0029 on page 2).

Regarding claim 3, Barany discloses wherein said step of establishing a logical call path comprises initiating, in response to receiving said embedded call setup signaling from said calling subscriber, a control-plane procedure to program said user-plane entities which are to be involved in routing of the call related user-plane traffic, to support said call (CSCF 41 supports a call setup between mobile station and network endpoints by sending a SIP Invite request from mobile station to the network endpoint and sending Session Progress messages from network endpoints to mobile station; See step 636 and 638 in Fig. 7B).

Regarding claim 4, Barany discloses wherein the one of said user-plane entities which serves the called party generates and sends a call setup signaling embedded in

user-plane traffic and containing said assigned call identifier to said called party (CSCF 41 identifies the location of the called terminal and establish the call over data network 32; See lines 12-14 of paragraph 0063 on page 5).

Regarding claim 5, Barany discloses a step of forwarding any subsequent user-plane traffic relating said call over said call path from said called subscriber to said calling subscriber (After the call has been set up, communication between mobile station 20 and a terminal 40 can proceed; See lines 12-13 of paragraph 0064 on page 5).

Regarding claim 6, Barany discloses wherein said user-plane traffic comprises real-time audio transport packets (See lines 1-5 of paragraph 0027 on page 2).

Regarding claims 7, 21-22, 26, 39-40, and 46-47, Barany discloses real-time audio transport packets having specific payload types (SIP ACK message; See lines 9-12 of paragraph 0064 on page 5).

Regarding claim 8, Barany discloses a method for establishing a one-to-one voice communication in a communications system having different control plane and user-plane logical entities, said method comprising the steps of

starting a packet-mode voice communication by sending a user-plane leader packet from a calling user to a first user-specific logical user-plane network entity serving said calling user, said leader packet containing identifier of said sending user and a receiving user (Mobile station sends the SIP Register request containing identifier of source and destination to the CSCF module 41; See lines 6-12 of paragraph 0073 on page 6 and Fig. 7A-C),

creating, in response to receiving said user-plane leader packet from said calling user, a logical user-plane channel between said first user-plane entity and a second user-specific logical user-plane network entity serving said called (See step 614 in Fig. 7A),

assigning a call identifier to said call (SGSN 35 assign radio access bearers to the mobile station; See step 612 of Fig. 7A and lines 12-15 of paragraph 0069 on page 6),

sending a user-plane leader packet from said second user-plane entity to said called user, said leader packet containing said call identifier, notifying said call identifier to the calling user by a user-plane communication (The CSCF module 41 forwards the SIP Invite request to the network endpoint; See step 636 of Fig. 7B and lines 6-8 of paragraph 0074 on page 6).

sending user-plane voice packets provided with said call identifier from said calling user to said first user-plane entity, forwarding said user-plane voice packets to said called user over said logical channel and via said second user-plane entity (Voice and other real time traffic is carried between the mobile station and the network endpoint over RTP bearer path; See step 684 of Fig. 7C and paragraph 0082).

Regarding claim 9, Barany discloses wherein said step of creating a logical user-plane channel comprises forwarding said user-plane leader packet to said called subscriber and establishing a logical call path between said first and second user-plane entities via which the leader packet is routed (Mobile station sends the SIP Register

request to the CSCF module 41; See lines 6-12 of paragraph 0073 on page 6 and step 630 of Fig. 7A).

Regarding claim 10, Barany discloses wherein said step of forwarding said user-plane leader packet comprises the further steps of inquiring an IP address of second communication entity from a communication control server on the basis of said identity of said receiving user, routing said user-plane leader packet and subsequent voice packets to said IP address of said second communication entity (**Mobile station get IP address of CSCF 41 by sending DNS-query to DNS server; See step 626 of Fig. 7A and paragraph 0072).**

Regarding claim 11, Barany discloses wherein said step of establishing a logical user-plane channel comprises initiating, in response to receiving said user-plane leader packet from said calling subscriber, a control-plane procedure to program first and second user-plane entities to support said call (**CSCF 41 provides overall call control for a packet-switch call; See lines 7-9 of paragraph 0029 on page 2).**

Regarding claim 12, Barany discloses wherein said second user-plane entity generates and sends a new user-plane leader packet containing said assigned call identifier to said called party (**The CSCF module 41 forwards the SIP Invite request to the network endpoint; See step 636 of Fig. 7B and lines 6-8 of paragraph 0074 on page 6).**

Regarding claim 13, Barany discloses wherein said step of notifying comprises sending a user-plane call setup acknowledgement packet containing said call identifier

from said first user-plane entity to said calling user (CSCF module 41 sends back a 200 OK response to the mobile station; See step 682 of Fig. 7C).

Regarding claim 14, Barany discloses starting transmission of said subsequent voice packets from said calling user in response to said user-plane call setup acknowledgement packet (Voice and other real time traffic is carried between the mobile station and the network endpoint over RTP bearer path; See step 684 of Fig. 7C and paragraph 0082).

Regarding claim 15, Barany discloses sending a user-plane reception acknowledgement packet from said called user to said second user-plane entity in response to receiving said user-plane leader packet from said second entity (the network endpoint also sends a 200 OK responding to the SIP Invite request to CSCF 41; See step 680 of Fig. 7C).

Regarding claim 16, Barany discloses sending, in response to receiving said user-plane reception acknowledgement packet from said called user, a user-plane call setup acknowledgement packet from said second user-plane entity to said first user-plane entity, and sending a user-plane call setup acknowledgement packet from said first user-plane entity to said calling user in order to enable the calling user to send the subsequent user-plane voice packets (CSCF module 41 forwards the 200 OK response from network endpoint to the mobile station; See step 682 of Fig. 7C).

Regarding claim 23, Barany discloses wherein said initiating of said control-plane procedure comprises sending an event notification message from said first user-plane entity to a first user-specific control-plane entity serving said calling user, said

notification message indicating that a one-to-one call is to be set up and containing said identifiers of said calling and called parties (**Step 602 of Fig. 7A**),

 said first control-plane entity determines, on the basis of said identity of said called user, a second user-specific control-plane entity serving said called user (**Step 610 of Fig. 7A**),

 said first control-plane entity instructs said second control-plane entity to define said second user-plane entity to support said call and to establish said user-plane logical channel (**Step 612 of Fig. 7A**),

 said first control-plane entity instructs said second control-plane entity to configure said second user-plane entity to support said call and to establish said user-plane logical channel (**Step 612 of Fig. 7A**),

 said first control-plane entity configures said first control-plane entity to support said call and to establish said user-plane logical channel (**Step 612 of Fig. 7A**).

Regarding claim 24, Barany discloses a communications system, comprising logical control plane network entities (**CSCF 41 of Fig. 1**),

logical user-plane network entities (**SGSN 35 and GGSN 36 of Fig. 1**),

user terminals supporting packet-mode one-to-one voice communication (**Mobile station 20 and terminals 40, 42 of Fig. 1**),

 each of said user terminals having a one-to-one call setup mechanism sending call setup signaling embedded in a user-plane traffic to one of said user-plane logical entities, said embedded user-plane signaling identifying a called user terminal (**See step 602 to step 630 of Fig. 7A**),

a first mechanism establishing, in response to receiving said embedded user-plane call setup signaling, a logical call path between the ones of said user-plane entities which are to be involved with routing of user-plane traffic related to said call
(See step 636 to step 686 of Fig. 7B-C) and

said logical user-plane entities having a second mechanism forwarding any subsequent user-plane traffic relating to said call over said call path from said calling subscriber to said called subscriber **(See step 688 of Fig. 7C).**

Regarding claim 25, Barany discloses wherein said user-plane traffic comprises real-time audio transport packets **(See lines 1-5 of paragraph 0027 on page 2).**

Regarding claim 27, Barany discloses a communications system, comprising logical control plane network entities **(CSCF 41 of Fig. 1),**

at least first and second user terminal supporting packet-mode one-to-one voice communication **(Mobile station 20 and terminals 40, 42 of Fig. 1),**

a dedicated user-specific logical user-plane network entity for each user terminal **(SGSN 35 of Fig. 1),**

each user terminal having a one-to-one call setup mechanism sending a user-plane leader packet to a respective one of said first user-plane network entities in order to start a one-to-one voice call, said leader packet containing identifier of a calling user and a called user **(See step 602 to step 630 of Fig. 7A),**

means responsive to receiving said user-plane leader packet from said calling user for creating a logical user-plane channel between a user-plane network entity of a

calling user terminal to a user-plane network entity of a called user terminal (See step 636 to step 686 of Fig. 7B-C),

means for assigning a call identifier for said call (SGSN assigns a predetermined channel to perform packet-switch call; See lines 10-12 of paragraph 0044 on page 4),

means for notifying said call identifier to the calling user terminal (The CSCF module 41 forwards the SIP Invite request to the network endpoint; See step 636 of Fig. 7B and lines 6-8 of paragraph 0074 on page 6),

means at said user-plane network entity of said called user for sending a user-plane leader packet from said user-plane network entity of said called user terminal to said called user terminal, said leading packet containing said call identifier (Voice and other real time traffic is carried between the mobile station and the network endpoint over RTP bearer path; See step 684 of Fig. 7C and paragraph 0082),

means at said first and second user-plane network entities for forwarding user-plane voice packets sent by said calling user terminal and provided with said call identifier to said called user terminal over said logical user-plane channel (Voice and other real time traffic is carried between the mobile station and the network endpoint over RTP bearer path; See step 684 of Fig. 7C and paragraph 0082).

Regarding claim 28, Barany discloses means for inquiring an IP address of second communication entity from a communication control server on the basis of said identity of said receiving user (Mobile station get IP address of CSCF 41 by sending DNS-query to DNS server; See step 626 of Fig. 7A and paragraph 0072),

means for routing said leader packet and subsequent voice packets to said IP address of said second communication entity **(Mobile station sends the SIP Register request to the CSCF module 41; See lines 6-12 of paragraph 0073 on page 6 and step 630 of Fig. 7A).**

Regarding claim 29, Barany discloses wherein said means for creating a logical channel comprises means for initiating, in response to receiving said embedded call setup signaling from said calling subscriber, a control-plane procedure to program said user-plane entities which are to be involved with routing of the call related user-plane traffic, to support said call **(CSCF 41 provides overall call control for a packet-switch call; See lines 7-9 of paragraph 0029 on page 2).**

Regarding claim 30, Barany discloses a first user-specific control-plane entity serving said calling user, a second user-specific control-plane entity serving said called user **(CSCF 41 provides overall call control for either calling user or called user; See lines 7-9 of paragraph 0029 on page 2).**

 said means for initiating said control-plane procedure comprising means for sending an event notification message from said user-plane entity of said calling user to said first control-plane entity, said notification message indicating that a one-to-one call is to be set up and containing said identifiers of said calling and called user **(Step 602 of Fig. 7A),**

 said first control-plane entity comprising means for determining, on the basis of said identity of said called user, said second user-specific control-plane entity **(Step 610 of Fig. 7A),**

said first control-plane entity comprising means for requesting said second control-plane entity to define said user-plane entity of said called user to support said call and to establish said user-plane logical channel (**Step 612 of Fig. 7A**),

 said first control-plane entity comprising means for configuring said control-plane entity of said calling user to support said call and to establish said user-plane logical channel (**Step 612 of Fig. 7A**).

Regarding claim 31, Barany discloses wherein said means for notifying said call identifier comprises means for sending a user-plane call setup acknowledgement packet containing said call identifier from said user-plane network entity of said calling user terminal to said calling user terminal (**CSCF module 41 sends back a 200 OK response to the mobile station; See step 682 of Fig. 7C**).

Regarding claim 32, Barany discloses wherein said calling user terminal is arranged to start transmission of said subsequent voice packets from said calling user in response to said notifying (**See step 684 and 688 of Fig. 7C**).

Regarding claim 33, Barany discloses wherein said called user terminal is arranged to send a user-plane reception acknowledgement packet to said user-plane network entity of said called user in response to receiving said user-plane leading packet (**See step 646 of Fig. 7B or lines 5-7 of paragraph 0075 on page 6**).

Regarding claim 34, Barany discloses means for sending, in response to receiving said user-plane reception acknowledgement packet from said called user, a user-plane call setup acknowledgement packet from said user-plane entity of said called

user to said user-plane entity of said calling user (CSCF 41 forwards a 200OK response to mobile station; See step 648 of Fig. 7B), and

means for sending a user-plane call setup acknowledgement packet from said user-plane entity of said calling user to said calling user terminal in order to enable the calling user to send the subsequent user-plane voice packets (CSCF 41 forwards COMET message to the network endpoint; See step 662 of Fig. 7B).

Regarding claim 41, Barany discloses a network element for a communication system, said network element comprising

a dedicated user-plane logical network entity for at least one user terminal supporting a one-to-one voice communication, said user-plane network entity comprising

(i) means for receiving a user-plane leader packet sent by a calling user terminal in order to start a one-to-one voice call, said leader packet containing identifier of a calling user and a called user (Mobile station sends the SIP Register request containing identifier of source and destination to the CSCF module 41; See lines 6-12 of paragraph 0073 on page 6 and Fig. 7A-C),

(ii) means for creating a logical channel to a user-plane network entity of said called user terminal in response to receiving said user-plane leader packet (See step 636 to step 686 of Fig. 7B-C),

(iii) means for assigning a call identifier (SGSN assigns a predetermined channel to perform packet-switch call; See lines 10-12 of paragraph 0044 on page 4),

(iv) means for notifying the calling user terminal of said call identifier by a user-plane communication (The CSCF module 41 forwards the SIP Invite request to the network endpoint; See step 636 of Fig. 7B and lines 6-8 of paragraph 0074 on page 6),

(v) means for sending a user-plane leader packet from said second user-plane entity to said called user, said leader packet containing said call identifier (Voice and other real time traffic is carried between the mobile station and the network endpoint over RTP bearer path; See step 684 of Fig. 7C and paragraph 0082),

(vi) means for forwarding user-plane voice packets sent by said calling user terminal and provided with said call identifier to said user-plane network entity of said called user terminal over said logical channel (Voice and other real time traffic is carried between the mobile station and the network endpoint over RTP bearer path; See step 684 of Fig. 7C and paragraph 0082).

Regarding claim 42, Barany discloses a user terminal for communications system, said user terminal comprising a one-to-one call setup mechanism sending a user-plane leader packet to a user-specific logical user-plane network entity in order to start a one-to-one voice call, said leader packet containing identifier of a calling user and a called user (See step 636 to step 686 of Fig. 7B-C),

means for starting to send user-plane voice packets to said user-plane network entity in response to receiving a user-plane call setup acknowledgement packet containing a call identifier, said voice packets containing said call identifier Voice and

other real time traffic is carried between the mobile station and the network endpoint over RTP bearer path; See step 684 of Fig. 7C and paragraph 0082).

Regarding claim 44, Barany discloses means for receiving from said user-specific user-plane network entity a user-plane leader packet originating from another user terminal and containing a call identifier (Mobile station sends the SIP Register request containing identifier of source and destination to the CSCF module 41; See lines 6-12 of paragraph 0073 on page 6 and Fig. 7A-C),

means for sending a user-plane reception acknowledgement to said user-specific user-plane network entity (The CSCF module 41 forwards the SIP Invite request to the network endpoint; See step 636 of Fig. 7B and lines 6-8 of paragraph 0074 on page 6).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 17, 35, 18-20, 36-38, 43 and 45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Barany et al. (US 2002/0034166 A1) in view of Schmid et al. (U.S 6,735,291).

Regarding claim 17, 35, Barany discloses said user-plane entity of said called user (CSCF 41 of Fig. 1).

Barany, however, fails to disclose said user-plane entity of said called user considers said called user unreachable in response to not receiving a reception acknowledgement packet within a preset timeout, and notifies said calling user of said unreachability.

Schmid teaches said user-plane entity of said called user considers said called user unreachable in response to not receiving a reception acknowledgement packet within a preset timeout, and notifies said calling user of said unreachability (If the TA 102 times-out in step 408, the TA 102 discontinues the secure call setup process 302, and respond to the failure to setup a secure call; See steps 408 & 410 of Fig. 4A and lines 14-18 of column 8).

It would have been obvious to one ordinary skill in the art at the time the invention was made to combine the preset timeout with called user for the purpose of enabling to measure a predetermined time, the motivation of using a predetermined being to ensure communication between said call user and said called user, so said call user can save time by either trying a call later or terminating a call.

Regarding claims 18, 36, and 43, Barany discloses user-plane leader packet (Mobile station sends the SIP Invite containing identifier of source and destination to the CSCF module 41; See step 634 of Fig. 7B).

Barany, however, fails to disclose user-plane leader packet comprises a description of communication capabilities said calling user wishes to use in said call.

Schmid teaches user-plane leader packet comprises a description of communication capabilities said calling user wishes to use in said call (SIP invite message indicates the capabilities of the Telephony Appliances TA 102, such as compression and encryption options; See lines 13-14 of column 8.

It would have been obvious to one ordinary skill in the art at the time the invention was made to combine invite message with description for the purpose of indicating the communication capabilities of calling user, the motivation of describing the communication capabilities being to let called user know how call user send and receive data packets.

Regarding claims 19-20, 37-38 and 45, Barany discloses sending response to SIP Invite Request (The network endpoint send a SIP 183 Session Progress message to mobile station; See step 638 of Fig. 7B and lines 9-13 of paragraph[h] 0074 on page 6).

Barany, however, fails to disclose sending a negative acknowledgement user-plane packet from said called user to said second user-plane entity if a terminal of said called user does not support said communication capabilities described in said leading packet and said negative acknowledgement packet contains a description of the communication capabilities said called user wishes to use.

Schmid teaches sending a negative acknowledgement user-plane packet from said called user to said second user-plane entity if a terminal of said called user does not support said communication capabilities described in said leading packet and said negative acknowledgement packet contains a description of the communication

capabilities said called user wishes to use (Notification message or exchanged message packets; See step 410 and 412 of Fig. 4A and lines 57-60 of column 12).

It would have been obvious to one ordinary skill in the art at the time the invention was made to combine notification with data packet for the purpose of notifying call user that called user does not support said communication capabilities described in said leading packet, the motivation of using notification message being to let call user know called user can not make a communication.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- a) Barany et al. (US 20020034166) Packet-based calls in a wireless network.
- b) Schmid et al. (U.S 6,735,291) Virtual private switched telephone network.
- c) Yoshimura et al. (US 20010048680 A1) Method and apparatus for packet transmission with header compression.
- d) Thorton et al. (U.S 6,363,065) Apparatus for a voice over IP (voIP) telephony gateway and methods for use therein.
- e) Michelle Perras(US 20020141369 A1) Method, system and node for providing enhanced mobility in simple IP telecommunication networks when performing L2TP tunneling.

f) Womack et al (US 2002/0105943) METHOD AND APPARATUS FOR ENABLING MULTIMEDIA CALLS USING SESSION INITIATION PROTOCOL.

g) Gyorgy Miklos (U.S 6,621,796) Discard mechanism for selective repeat automatic repeat request.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to SON X. NGUYEN whose telephone number is 571-272-6048. The examiner can normally be reached on 8 AM -5 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ken Vanderpuye can be reached on 571-272-3078. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

3/25/05
Son X. Nguyen



KENNETH VANDERPUYE
PRIMARY EXAMINER